

REMARKS

Examiner's Rejections and Objections

The foregoing Amendment and remarks which follow are responsive to the initial Office Action mailed May 5, 2004. In that Office Action, the Examiner rejected Claims 21-40 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over US Patent No. 6,695,507.

Additionally, the Examiner rejected Claims 21, 23 and 25 under 35 U.S.C. §102(b) as being anticipated by Takimoto (5,746,455). The Examiner also rejected Claim 22 under 35 U.S.C. §103(a) as being unpatentable over Takimoto in view of Waiters (3,899,905). Furthermore, Claim 26 was rejected under 35 U.S.C. §103(a) as being unpatentable over Takimoto in view of Stole (4,452,476). The Examiner additionally rejected Claims 27, 28 and 32 under 35 U.S.C. §103(a) as being unpatentable over Enomoto (5,853,205) in view of Takimoto.

The Examiner further rejected Claim 29 under 35 U.S.C. §103(a) as being unpatentable over Enomoto in view of Takimoto and further in view of Waiters. The Examiner rejected Claim 31 under 35 U.S.C. §103(a) as being unpatentable over Enomoto in view of Takimoto and further in view of Nicholsfigueiredo (6,301,941). Claim 33 was rejected under 35 U.S.C. §103(a) as being unpatentable over Enomoto in view of Takimoto and in further view of Stole.

Traversal of Rejection of Claims 21-40 under the Judicially Created Doctrine of Obviousness-Type Double Patenting

In response to the Examiner's rejection of Claims 21-40 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over US Patent No.

6,695,507, Applicants have submitted a terminal disclaimer in compliance with 37 CFR § 1.321(c). As such, Applicants respectfully submit that the submission of the terminal disclaimer overcomes the Examiner's rejection of Claims 21-40 under the judicially created doctrine of obviousness-type double patenting.

Amended Independent Claims 21 and 27

Applicants set forth below their arguments for amended base Claims 21 and 27 in numerical order in the interest of clarity and to assist the Examiner in facilitating the prosecution of the subject patent application. In this regard, Applicants hope to lay out the distinctions between the present invention (as recited in amended base Claims 21 and 27) and the prior art reference cited thereagainst, namely, Takimoto.

1. The Present Invention In Amended Base Claims 21 and 27

Applicants have amended base Claims 21 and 27 which are believed to incorporate features that are novel over the relevant prior art reference, namely, Takimoto. The proposed amendments are not believed to add new matter or necessitate further searching.

The lock system of the present invention, as reflected in amended base Claims 21 and 27, now features the lock device being selectively engageable to and disengageable from the locking member. As will be demonstrated below, Applicants respectfully submit that such recitation of elements, along with other enumerated elements of amended base Claims 21 and 27, will be sufficient to patentably distinguish the present invention over the cited prior art of relevance, namely, Takimoto.

2. Rejection of Claim 21 Under 35 U.S.C. §102(b)

Claims 21, 23 and 25 were rejected under 35 U.S.C. §10(b) as being anticipated by Takimoto.

In rejecting Claim 21 under 35 U.S.C. §102(b), the Examiner indicates that “Takimoto teaches a lock system comprising a lock housing (3) attachable adjacent a door (2) and having a lateral aperture (3b) extending generally parallel thereto; a lock device (5, 7, 8) disposed within the lock housing (3); and a locking member (4) with a locking portion disposed within the lateral aperture and being slidable therealong between unlock and lock position, the locking portion substantially retracting within the lateral aperture when in the unlock position, the locking portion extending over the printer door when in the lock position to secure the same and prevents theft.” (Initial Office Action, Page 3).

3. The Standard for 35 U.S.C. §102 Rejection

As is well-known, anticipation cannot be established unless a single prior art reference discloses each and every element of the claimed invention. Structural Rubber Co. v. Park Rubber Co., 749 F.2d 707, 223 U.S.P.Q. 1264 (Fed. Cir. 1984). Further, for anticipation to apply, all of the claimed elements must be found in exactly the same situation and united in the same way to perform the identical function in a single unit of the prior art. (See, e.g., Studiengesellschaft Kohle m.b.H. v. Dart Industries, 762 F.2d 724, 726, 220 U.S.P.Q. 841, 842 (Fed. Cir. 1984)). Even further, any inherency which is applied in the context of anticipation “does not embrace probabilities or possibilities.” Trintec Industries Inc. v. Top-U.S.A. Corp., 63 U.S.P.Q.2d 1597, 1601 (Fed. Cir. 2002) (holding of no express or inherent anticipation in a scenario where a catalog taught printing methods but not “creating” anything in a computer as

the latter was not disclosed therein). As will be demonstrated below, Takimoto fails to anticipate the present invention in view of such legal standard.

4. Traversal of Rejection Under 35 U.S.C. §102(b)

Applicant submits that, as understood, the cited prior art references, when taken either alone or in any proper combination, do not teach or suggest the emphasized feature of the present invention. More specifically, the cited prior art references are not understood to teach or suggest the feature of the lock device being selectively engageable to and disengageable from the locking member as claimed in amended Claim 21. Even though the Takimoto reference is generally directed toward a latch, Takimoto is not understood to disclose the present invention's specific combination of elements as recited in amended independent Claim 21.

With respect to the feature recited in amended independent Claim 21, Applicant submits that the lock of Takimoto fails to disclose the concept of specifically providing a separately placed lock device which selectively engages and disengages the locking member in order to form the lock and unlock positions. Moreover, Applicant respectfully submits that Takimoto is silent as to such concept. Rather, as understood, the control pin (equivalent to the present invention's lock device) of Takimoto is "fixedly mounted ... on the bolt." (Column 2, lines 60-61; Figs. 1-4). Applicant submits that Takimoto's control pin is not separately provided from its bolt but, rather, is integrally formed therewith. Therefore, Applicant submits that the control pin of Takimoto cannot be selectively engaged to and disengaged from the bolt in order to form the lock and unlock positions. In this respect, Applicant respectfully submits that Takimoto fails to disclose such emphasized feature of amended independent Claim 21.

Applicant respectfully submits that amended base Claims 21 is allowable. Insofar as the amended base Claim 21 is believed to be allowable, its dependent claims, namely Claims 22-26, are also believed to be allowable as they are further limitations of Claim 21.

5. Rejection of Claim 27 Under 35 U.S.C. §103(a)

The Examiner rejected Claims 27, 28 and 32 under 35 U.S.C. §103(a) as being unpatentable over Enomoto (5,853,205) in view of Takimoto.

In rejecting Claims 27, 28 and 32 under 35 U.S.C. §103(a), the Examiner indicates that “Enomoto teaches a printer with a lock system [wherein] the printer body has a printer door...”. The Examiner further indicates that “Enomoto does not teach a lock system...” but that “Takimoto teaches a lock system” as described above in Section 2. (Initial Office Action, Page 5).

6. Traversal of Rejection Under 35 U.S.C. §103(a)

As described above, Takimoto does not appear to teach or suggest the feature of the lock device being selectively engageable to and disengageable from the locking member as claimed in amended Claim 27. Likewise, neither Enomoto nor the combination of Takimoto and Enomoto appear to teach or suggest the feature of the lock device being selectively engageable to and disengageable from the locking member.

Applicant submits that because Takimoto and Enomoto, either alone or in combination, fail to teach every element as claimed, a prima facie case of obviousness is not established, and the rejection is therefore traversed. Therefore, Claim 27 is believed to be patentable over the cited and applied references.

Applicant respectfully submits that amended base Claim 27 is allowable. Insofar as the amended base Claim 27 is believed to be allowable, its dependent claims, namely Claims 28-33, are also believed to be allowable as they are further limitations of Claim 27.

Request for Allowance

On the basis of the foregoing, Applicant respectfully submits that all the stated grounds of rejections have been overcome, and that Claims 21-40 are in condition for allowance. An early Notice of Allowance is therefore respectfully requested.

Should the Examiner have any suggestions for expediting allowance of the application, the Examiner is invited to contact Applicant's representative at the telephone number listed below.

Respectfully submitted,

Date: 8/5/04

By: _____



Sean O'Neill
Registration No. 45,446
STETINA BRUNDA GARRED & BRUCKER
75 Enterprise, Suite 250
Aliso Viejo, CA 92656
(949) 855-1246